

October 22, 2003

Bill Pennington
Project Manager
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California Energy Commission
1516 Ninth Street, MS-28
Sacramento, CA 95814

Re: 2005 Building Energy Efficiency Standards

Dear Bill:

I am sorry that I did not get a chance to speak with you at the September 4th Committee Workshop on the 2005 Building Energy Efficiency Standards; it's probably just as well due to the amount of work you are completing. I have a few general comments from CHEERS® perspective that may aid in the excellent work you, your staff and the consultants are doing. In addition, I'm responding specifically to concerns raised by Bill Mattinson on behalf of CABEC. I will be responding as Executive Director of CHEERS, not as a board member of CABEC since the CABEC letter submitted was not seen by the CABEC board.

CHEERS and its Certified Raters welcome and look forward to the expanded opportunity of providing verifications for the 2005 Building Energy Efficiency Standards. Many of the items that are included in the proposed standards will simply require additional training for our current and future raters. CHEERS has been working to determine the best course of action. At this point in time it is projected that CHEERS will modularize the training and in many cases it will occur in the field providing greater adherence to the Standards. Providing the training in modules will allow the Raters to become certified for those components they have been contracted to verify in a timely manner. Additionally, providing training in this format will be more sensitive to the work schedules of Raters and reduce the cost. Providing training in the field with a Rater will raise the quality of the training. For example, if a Rater has a job that will require him/her to verify the insulation, CHEERS or its trainer will go into the field and potentially certify the individual for that particular component.

An important reason for including the HERS Provider Notification is to ensure that homes are being built as designed and verified to be compliant to the Standards. CHEERS is supportive of this provision and is willing to make the minor necessary changes in our business model. Unfortunately due to continuing budget cuts in the public sector more and more responsibility is being migrated over to the private sector. Section 7.4 of the Residential ACM is an example of that migration.

The comments by Bill Mattinson on CABEC letterhead indicate the industry does not support this provision; however there are public comments from a CABEC member that do support this provision. Bill does raise some valid points, and to address these CHEERS has attached suggested language changes to section 7.4 HERS Provider Notification. CHEERS specific responses to the CABEC letter are listed below; (I have reproduced the CABEC comments/questions for ease of reading).

Item #1: Although requirements for the documentation author to notify the HERS provider were added no language was added directing the HERS provider on what to do with this information. What will become of these notifications?

CHEERS Response: CHEERS will maintain the information in a confidential database until there is a need for a Rater to contact the builder. CHEERS Rater assignment guidelines were developed with input from Raters, Title-24 consultants and builders and approved by CHEERS board.

Item #2: The enforcement agency is supposed to verify that the documentation author notified the HERS provider – does this imply that the author’s signature on the compliance documentation is not enough? No language is provided to require that the HERS provider verify this notification in a timely fashion. It is quite possible that plan check could be held up because the enforcement agency cannot get verification as to whether a HERS provider has been notified.

CHEERS Response: When the information is provided to CHEERS, the documentation author will receive immediate notification that the HERS provider has been notified. We are anticipating that CHEERS would implement a variety of notification processes based on how the information is submitted to CHEERS (phone, fax, e-mail, website). If a documentation author submits the data via our website they will receive an e-mail with the notification information.

Item #3: The language is silent on what to do if there is more than one HERS provider. What happens if the documentation author notifies one HERS provider and the builder selects another?

CHEERS Response: If there is more than one provider, the documentation author just needs to prove they notified a provider of their choice. The builder hires a rater not a provider so if the documentation author notifies one provider and the builder uses another rater it makes no difference since the notification does not provide enough information to provide the verification.

Item #4: This language adds a significant burden of work to HERS providers. It is likely that the HERS providers will charge for this service and add to the cost of construction.

CHEERS Response: CHEERS does not anticipate charging for this service, it is part of doing business. Not sure how this conclusion was reached, since CHEERS was not contacted.

Item #5: This language requires that the HERS provider be notified before the builder or designer has even gone to the building department for a building permit. What happens if the plans are modified and no longer require field verification? Will the HERS provider contact the building department to check?

CHEERS Response: There will be no need to contact the building department since the plans that are submitted will not include the HERS features.

Item #6: The way this language is worded, the documentation author cannot complete the compliance documentation until he has notified the HERS provider. It is inappropriate for a third party HERS provider to receive these documents before the builder or designer who hired the energy consultant. This is awkward for the consultant-customer relationship as most compliance documentation authors are consultants working for the builders and designers.

CHEERS Response: If the 2005 Standards are approved, it will be a legal/regulatory requirement for the documentation author to provide the information relieving the author of any discomfort. The data the HERS provider is to receive are only six pieces of information, not the compliance documentation (i.e., CF-1r or CF-2r).

Item #7: Finally, we can see no way the imposition of this notification by the documentation author will actually encourage builders or enforcement agencies to carry out their legal obligation. The Certificate of Compliance already provides full notice to everyone that HERS field verification is necessary – anyone who looks at it should be aware of those requirements and be prepared to follow through with their responsibilities to fulfill them.

CHEERS Response: CHEERS disagrees. The builder, HERS provider and plan check agency will know that HERS features are included versus now where homes are being modeled that include HERS features, but plan check and the builder do not know it. Implementing this type of process will heighten the awareness and decrease the number of people trying to circumvent the system.

It is disappointing to read that this notification will cause the building industry to continue avoiding using HERS features. It is the documentation author that is responsible for recommending to the builder what should be installed to make the home compliant with Title-24 in the most cost-effective manner. In many cases HERS features are the most cost-effective approach. In addition CHEERS has seen more and more builders using HERS features that are not participating in utility programs.

Finally, notification is the only means to ensure proper quality assurance. Placing greater responsibility on the building department will NOT solve the problem. Building departments could see the completed documentation at the project, but not know from the documentation if the Rater has tested the system or reported the information to the HERS provider. Incorporating the HERS provider at the beginning of the process will close the circle by allowing the HERS provider to know what projects are using HERS features for compliance. Not incorporating the provider notification into the standards will not improve how business is currently being done.

Thank you for the opportunity to comment on the 2005 Building Energy Efficiency Standards.

Sincerely,

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